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Turkey: New company set to boost IP commercialisation

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Özge Atılğan Karakulak and Güldeniz Doğan Alkan of Gün + Partners examine the advantages and disadvantages of TÜRKSMĐ, a new company set up by the Turkish IP Office to value intellectual property rights

The Turkish Patent and Trademark Office (the Office) founded a company on April 2 2018 based in Ankara, called Türk Sınai Mülkiyet Değerleme Mühendislik ve Danışmanlık Hizmetleri Anonim Şirketi (TÜRKSMĐ). The company's sole owner is currently the Office. TÜRKSMĐ will be able to pursue commercial purposes since it is founded as a corporation and is open to all nationalities, persons and institutions.

The primary aim of TÜRKSMĐ is to value intellectual property rights belonging to real and legal persons and assist with the commercialisation of inventions, patented or not yet patented, that have arisen as a result of R&D activities.

TÜRKSMĐ's services

In addition to its core purpose, TÜRKSMĐ can provide other services that are stated in its Articles of Association. They include:

- providing services regarding assignment and licensing of IP rights;
- determination of new technologies, carrying out activities related to engineering services and informatics;
- providing training and accreditation services for entities and ventures that will provide IP valuation and consulting;
- introducing engineering services in terms of the creation, development and revision of IP rights, providing consultancy on and carrying out the processes of registration and protection of those rights;
- carrying out activities in order to create a trade relationship between inventors and the private sector.

The benefits

There are few entities in Turkey that provide IP valuation services. Although TÜRKSMĐ has the authority to evaluate any IP right, it seems that its focus will be on patents. The valuation of IP rights is crucial, especially for inventions. The reason is that inventors have doubts about whether their innovation can be rewarded and their R&D expenditures can be compensated. A patent that can be commercialised is a reward for inventors. They would not want to spend money on a futile attempt which will not bring any return. It is important to understand the real market value of patents in order to be able to commercialise them. The main aim of TÜRKSMĐ seems to be directed to this purpose.

Inventors can have their innovation assessed by TÜRKSMĐ and then be able to use it as a financing tool. For instance, an inventor will have the opportunity to take a loan from a bank by showing the value of its patent, as assessed by TÜRKSMĐ. Furthermore, TÜRKSMĐ also aims to close the gap between private sector agents and innovators in order to facilitate the commercialisation of an invention. **It is foreseen that the entity's establishment will have many positive effects for patentees since they will know the value of their patents and will be able to license them more or less at the market price.** The same will apply for a licensee. A licensee will be assured that he is not a victim of overpricing once a patent for which the licence is given has been valued by the company. This individual benefit is expected to have a positive effect on the Turkish economy by increasing domestic production, innovation and competition.

Another positive effect of TÜRKSMD is expected to be its instructional purpose. It will give informative sessions to institutions and enterprises on IP valuation and accreditation. In this way, IP valuation could become more common and accessible in the market. TÜRKSMD can provide expert opinion in disputes before the Turkish courts. This was presented as something that would lead to better judgments, especially where the price of an IP right is at stake.

The concerns

Despite its advantages, TÜRKSMD might have some drawbacks. First of all, on the basis of the Articles of Association, TÜRKSMD will be able to do some tasks that patent and trade mark attorneys are also entitled to do, such as registering rights, managing the whole process for the protection of those rights and giving consulting services to right holders.

Conflict of interest problems may arise during the application process, particularly in the case of patents. For example, where a patentee is represented by TÜRKSMD, or a patentee has a report from TÜRKSMD stating that the invention is patentable, the Office may be more inclined to grant the patent. Furthermore, when the Office examines oppositions against a patent that has been granted, it might not easily decide to invalidate that patent if the patentee is on the same side as TÜRKSMD. Accordingly, it is said that there is a risk that the objectivity of the Office may be disrupted when TÜRKSMD is involved in the application process.

The outlook

In light of the above, it is arguable that TÜRKSMD is a welcome development in the area of IP rights advice in Turkey. TÜRKSMD was founded with the aim of playing a part in encouraging innovators who hope to reap the fruits of their innovations. ***It is expected that IP valuation, especially for patents, will increase innovation, the number of patents and their commercialisation in Turkey.*** To address the concerns, the scope of activities of TÜRKSMD could be narrowed down to IP valuation. Only time will tell whether the goal of increasing domestic production by stimulating technology transfer and innovation will be achieved.

Authors



Güldeniz Doğan Alkan



Özge Atılğan Karakulak